FISCAL NOTE

HB 373 - SB 388

February 25, 2017

SUMMARY OF BILL: Creates a class E felony for evading arrest that results in death and a class C felony for evading arrest in a motor vehicle that results in death. Requires anyone convicted of a class C felony for evading arrest to serve a minimum of 90 days confinement.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – $536,000/Incarceration*

Assumptions:

- Evading arrest is a class A misdemeanor unless committed while operating a motor vehicle, in which case it is a class E felony or a class D felony if the evasion creates a risk of death.
- Statistics from the Administrative Office of the Courts shows an average of 368.8 convictions per year for the misdemeanor offense of evading arrest. These statistics represent convictions at the state court level. It is assumed that only 10 percent of misdemeanor convictions are at the state court level. It is assumed that there are a total of 3,688 convictions (368.8 x 10) per year for evading arrest.
- It is assumed that 10 of the convictions each year will have involved a death. As a result, the proposed legislation will create 10 new felony cases per year. However, it is assumed that most of the offenders will get probation given the new offense is a class E felony.
- It is assumed that the proposed legislation will result in four admissions each year for class E felony evading arrest resulting in death.
- The average time served for a class E felony is 1.4 years.
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2017 is $68.75.
- Population growth will not impact these admissions.
- A recidivism discount does not apply because these are new felonies.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on each offender serving 1.4 years (511.35 days) at a cost of $35,155 ($68.75 x 511.35 days). The total cost for four offenders is $140,620 ($35,155 x 4).
- Statistics from the DOC show an average of 71.5 admissions each year for class E felony for evading arrest in a motor vehicle that creates a risk of death. It is assumed that 10 percent (71.5 x 0.10 = 7.2) of these admissions result in death.

- Class C felony offenders qualify for probation. It is assumed four of the seven offenses will receive probation, but the offenders will have to serve at least 90 days confinement.
- The proposed legislation will result in four offenders serving 90 days for an increase of $24,750 (4 offenders x 90 days x $68.75).
- It is assumed the other three offenders will be admitted into DOC custody to serve a term of imprisonment.
- These offenses would be class E felony offenses under the current law. The proposed legislation will result in each admission serving an additional 4.92 years (6.32 years, average time served for class C felony – 1.40 years, average time served for class E felony).
- Population growth will not impact these admissions.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on each offenders serving 4.92 years (1,797.03 days) at a cost of $123,546 ($68.75 x 1,797.03 days) per offender. The total cost for three offenders is $370,638 ($123,546 x 3).
- The total increase in state incarceration costs is $536,008 ($140,620 + $24,750 + $370,638).
- The proposed legislation only creates 10 new felony cases each year. It is assumed that the courts, public defender, and district attorneys can accommodate the impact to their caseloads within existing resources.

Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista M. Lee, Executive Director

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